BEFORE THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES OF THE STATE OF MONTANA

In the matter of the amendment of ARM)	NOTICE OF PUBLIC HEARING
37.30.102 pertaining to vocational)	ON PROPOSED AMENDMENT
rehabilitation IPE care requirements)	

TO: All Interested Persons

1. On January 31, 2007, at 10:30 a.m., a public hearing will be held in the auditorium of the Department of Public Health and Human Services Building, 111 N. Sanders, Helena, Montana to consider the proposed amendment of the above-stated rule.

The Department of Public Health and Human Services will make reasonable accommodations for persons with disabilities who need an alternative accessible format of this notice or provide reasonable accommodations at the public hearing site. If you need to request an accommodation, contact the department no later than 5:00 p.m. on January 22, 2007, to advise us of the nature of the accommodation that you need. Please contact Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210; telephone (406)444-5622; FAX (406)444-1970; e-mail dphhslegal@mt.gov.

2. The rule as proposed to be amended provides as follows. Matter to be added is underlined. Matter to be deleted is interlined.

37.30.102 VOCATIONAL REHABILITATION POLICY: INCORPORATION BY REFERENCE OF FEDERAL AND STATE AUTHORITY (1) The department, except as otherwise provided in this chapter, adopts and incorporates by reference, for purposes of administering the program of vocational rehabilitation services, the federal regulations specified in (2) as presented in the July 1, 2004 2006 edition of the Code of Federal Regulations (CFR). These federal regulations, adopted by the United States Department of Education, govern the administration and delivery by the states of various aspects of vocational rehabilitation services.

- (2) through (3) remain the same.
- (4) The following Montana vocational rehabilitation policies govern the administration and delivery of vocational rehabilitation services as specified:
 - (a) through (f) remain the same.
- (g) For purposes of developing the IPE: Montana Vocational Rehabilitation Policy W "Core Requirements of IPE" dated December 27, 2002 October 1, 2006.
 - (h) remains the same.

AUTH: <u>53-7-102</u>, <u>53-7-206</u>, 53-7-302, <u>53-7-315</u>, MCA IMP: <u>53-7-102</u>, 53-7-103, 53-7-105, 53-7-106, 53-7-108, <u>53-7-203</u>, 53-7-205, 53-7-302, <u>53-7-303</u>, 53-7-306, <u>53-7-310</u>, 53-7-314, MCA 3. The department is proposing through this notice to change the time period allowed for the development of an Individualized Plan For Employment (IPE) which is the planning process engaged in for the purpose of determining what particular services should be made available through the vocational rehabilitation program to a consumer of vocational rehabilitation services. It is also proposing to update the citation to the relevant federal vocational rehabilitation program provisions of the federal Code of Federal Regulations (CFR) incorporated by reference in the Montana vocational rehabilitation rule set, from the July 1, 2004 edition of the CFR to the July 1, 2006 edition.

The provision of ARM 37.30.102 proposed for amendment, incorporates by reference a certain specific policy, known as the Montana Vocational Rehabilitation Policy W – "Core Requirements of IPE or MVR Policy 3.6, that is published in the Montana Vocational Rehabilitation Policy Manual. The department is republishing that policy with a date of October 1, 2006 to include in the policy text a reduction in the time period for the IPE development after the date of eligibility from six months to 120 days.

The department is proposing the change based upon the direction of the Rehabilitation Services Administration (RSA), an administrative entity of the United States Department of Education's Office of Special Education and Rehabilitative Services. The department has determined that this requested change would be feasible and effective. The proposed change includes the opportunity upon mutual agreement of the counselor and the consumer for an extension of the time period by which to accommodate exigent circumstances.

The adoption of the proposed rule amendment would impact upon adoption those persons who are newly entering Montana vocational rehabilitation services who have yet to develop or are in the course of developing with their counselors an IPE. This rule change will not impact benefit level or service cost. Most IPEs are currently developed within 120 days of the determination of eligibility. Because of this and of opportunity for the consumer and counselor to extend the time period based on exigent circumstance, the proposed rule change is not expected to negatively impact consumers.

The department in considering the adoption of this differing time period determined that the only available recourse was to implement the change as directed by the federal Rehabilitation Services Administration. The vocational rehabilitation program is a collaborative federal and state program with governing direction as to administration and service delivery governed by federal statute, regulation, and policy. Federal direction is primarily in the form of the regulations and policy promulgated by RSA and compliance with that direction is necessary for the continued provision of those services to Montana citizens. Consequently, consideration of the retention of the status quo or of time periods other than that directed by RSA was not given consideration.

The proposed change as to the referenced edition of the CFR for purposes of rule

incorporation of the federal regulations is appropriate to maintain reference to the most current authority allowing persons to more readily access the relevant incorporated text. This incorporation does not involve substantive changes in service delivery to consumers since the regulations have remained unchanged from that earlier date.

- 4. Interested persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to Dawn Sliva, Office of Legal Affairs, Department of Public Health and Human Services, P.O. Box 4210, Helena, MT 59604-4210, no later than 5:00 p.m. on February 9, 2007. Data, views, or arguments may also be submitted by facsimile (406)444-1970 or by electronic mail via the Internet to dphhslegal@mt.gov. The department also maintains lists of persons interested in receiving notice of administrative rule changes. These lists are compiled according to subjects or programs of interest. For placement on the mailing list, please write the person at the address above.
- 5. The Office of Legal Affairs, Department of Public Health and Human Services has been designated to preside over and conduct the hearing.

/s/ Cary Lund for	/s/ Joan Miles
Rule Reviewer	Director, Public Health and
	Human Services

Certified to the Secretary of State January 2, 2007.